



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2022-0035]

Guidance on Development and Implementation of Railroad Capital Projects

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed guidance.

SUMMARY: FRA proposes guidance on the development and implementation of railroad capital projects that are funded, in whole or in part, by FRA. FRA seeks comment from the public on the content and application of the proposed guidance (“guidance”), which is available for review at <https://www.regulations.gov> under docket number FRA-2022-0035.

DATES: Comments are encouraged and will be accepted until **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]**

ADDRESSES: Comments should refer to docket number FRA-2022-0035 and be submitted at <https://www.regulations.gov>. Search by using the docket number and follow the instructions for submitting comments. All submissions must include the agency name and docket number FRA-2022-0035.

FOR FURTHER INFORMATION CONTACT: For further information, please contact David Valenstein, Senior Advisor, Office of Infrastructure Investment, by email: david.valenstein@dot.gov or by telephone: 202-493-6368.

SUPPLEMENTARY INFORMATION: FRA has identified the time-sensitive need to establish clear practices and procedures for the development and implementation of railroad capital projects through the issuance of agency guidance. Over the next five years, the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117-58, also known as

the “Bipartisan Infrastructure Law”) will provide unprecedented Federal funding for rail improvement projects in America. FRA intends for its final guidance to assist project sponsors in developing effective capital projects and to enhance the management of capital projects to meet budgets and schedules.

The audience of the guidance includes project sponsors and partners, as well as the wide range of professionals who contribute to the planning, development, and implementation of railroad capital projects. The guidance: (1) defines the stages in the railroad capital project lifecycle and project development process from inception to operation; (2) describes the project management tools, processes, and documentation that FRA may require when providing grants that fund the development or implementation of a railroad capital project; (3) differentiates between Non-Major projects and Major projects by defining a “Major Project” as a railroad capital project with an estimated total project cost equal to or greater than \$300 million and with at least \$100 million in total Federal assistance.

FRA intends to strongly encourage project sponsors to follow the guidance when developing, implementing, and managing railroad capital projects. FRA may use the guidance to inform its grant application reviews and decisions in accordance with a process described in a notice of funding opportunity for the relevant grant program, and may require compliance with the guidance as part of grant agreements funding railroad capital projects in accordance with 2 CFR parts 200 and 1201. The practices contained in the guidance draw from FRA’s experience and from established programs of other DOT operating administrations that have enhanced the delivery of major highway and transit projects.

FRA is seeking feedback on the following items:

- Definitions established in the guidance, particularly the definitions of a Major Project and a Project Sponsor. FRA is proposing a Major Project definition that is

similar to the definition used by the Federal Transit Administration (FTA).

FRA's definition of Project Sponsor accounts for the range of public and private applicants eligible for FRA grant programs.

- The potential application of this guidance to railroad projects receiving financing or funding under the credit and grant programs administered by the DOT.
- Project Lifecycle Stages, including the FRA Project Lifecycle Model and terminology in relationship to past FRA programs and to the project lifecycle models of the FTA and Federal Highway Administration (FHWA). FRA proposes a model consisting of six stages: (1) Systems Planning, (2) Project Planning, (3) Project Development, (4) Final Design, (5) Construction, and (6) Operation. FRA proposes these terms for their clarity over other terminology such as FRA's past term PE/NEPA for the third stage. FHWA has described a normal lifecycle for highway projects following five phases: (1) planning, (2) preliminary design and environmental review, (3) final design and right-of-way acquisition, (4) construction, and (5) operation.¹ FTA follows another similar model for the Capital Investment Grant Program which requires three steps after completion of planning: (1) Project Development, (2) Engineering, and (3) Construction.
- The completion measures for the Project Planning, Project Development, Final Design, and Construction lifecycle stages, particularly the milestone activities relating to planning, engineering/design, environmental review, and project management tools.
- The four project management tools featured and how they are described, including the differences between Non-Major and Major projects.

¹ <https://highways.dot.gov/public-roads/julyaugust-2004/life-cycle-continuum>, Accessed April 21, 2022.

- The lifecycle progression of project delivery planning and implementation including consideration of public-private partnerships and innovative procurements. The lifecycle model describes initial Project Sponsor consideration of delivery for Major Projects during the Project Planning stage and progressive refinement in later stages.
- Any other suggestions for enhancing the guidance.

PRIVACY ACT:

FRA is soliciting comments from the public to better inform its guidance process. FRA posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Issued in Washington, D.C.

Paul Nissenbaum,

Associate Administrator,

Office of Railroad Policy and Development.

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